McLaughlin, 10/015, 708, 11/02/01 [Division of 09/235,618 of 001/21/99

Standard Signature Page for John R. Ewbank, Reg.# 14,853

This document is respectfully submitted.

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CERTIFICATE OF MAILING

John R. Ewbank hereby certifies that this document is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Commissioner of Patents, Washington DC 20231 on the date indicated below.

Date Feb 7, 2003 Signature John R Ewbank

John R. Ewbank

3713

In the United States Patent and Trademark Office

William E. McLaughlin

10/~~015,708~~ 757798 filed Nov. 1, 2001

Division of 09/235,618 of 01/21/99 [Now 6,982,108 of Nov, 18m 2002]

Group 3713, A. Rade, Assistant Examiner

Southampton, PA 18966-4545

February 7, 2003

Assistant Commissioner for Patents, Box Amendment without Fee

Washington, DC 20231

Sir:

DISCOVERY ABOUT AMAZING CONFUSION

During yesterday's telephone conversation with his associate attorney, Eric Scherlin, of 2121 Crystal Drive,#804, Arlington, VA counsel made a new discovery that helps to clarify the manner in which the "amazing confusion" [mentioned in the communication filed about Dec. 6, 2002] originated.

The documents comprising and related to the Notice of Allowability of September 6-7, 2001 were the first documents after the filing of the Continuing Prosecution Application [CPA] on June 6, 2001. Concurrent with the Notice of Allowability was the Examiner's Summary of a telephone conversation with counsel on July 30, 2002. The gist of such Summary and the Reasons for Allowability make it clear that both counsel and Examiner intended to issue the method claims in the CPA case, with the prosecution of the apparatus claims in a divisional application [that is, the present case]. Although counsel and Examiner were agreed concerning the two classes of claims, the Examiner, by Examiner's Amendment, inadvertently cancelled the method claims instead of the obviously intended apparatus claims, and that is how 6,982,106 issued with apparatus claims.

Counsel has several times studied MEPEP 1463-1480 concerning correction of patents. The statutes include 35USC254 designed to cope with this type of situation. Neither the reissue procedure nor any of the CoC procedures seem relevant. The Patent Office, sua sponte, can republish the patent to care for the situation in which the wrong claims have been published. LIRSI warrants that the original of Pat. 6,982,108 will be forwarded for surrender to the Patent office as soon as counsel is advised that the republishing of the patent with the method claims has been authorized. The Patent office will thus be able to collect two sets of renewal fees. Such republication of 6,982,108 will permit prosecution of the present application to move ahead on its merits. Such republishing would be consisted with the total terminology of the Sept. 7 documents.. The inadvertent confusion about claim numbering [as distinguished from claim groupings] is the type of mistake for which 35USC254 authorizing the republication of a Patent was designed.

Theoretically counsel might have detected such confusion earlier. However most patent attorneys focus on expediting the divisional application instead of detailed analysis of claim numbering after receipt of a Notice of Allowability.

Counsel argues for patentability of the apparatus claims pending in this case. From the first there has been the argument that both the apparatus and method were allowable for the same reasons, so that the reasons for allowability expressed in the Notice of Allowability for 6,982,106 has from the first been deemed reason sufficient for prompt allowance of the claims herein. Counsel has not heard about any prospective licensee alerting the patent office of prior art pertinent to this case, even though it has been published, and even though many prospective licensees were provided with printed copies of 6,982,106, it being

assumed that the correction process could be clarified prior to formal licensing. Hence, the Examiner should expedite Notice of Allowability with confidence that the confusion problem will be dealt with appropriately..

Counsel is available for a telephone conference. Counsel is available for an interview in Arlington, preferably closer to mid-day instead of near opening or closing time. Counsel prefers to drive to an from Arlington in a single day. In connection with counsel's hobbies, an overseas trip is scheduled for about March 19-30. Counsel would prefer to have such interview prior to such trip.

Prompt and favorable action are earnestly solicited.. The signature page is separate.